IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SIXTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Mr. JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 20770 of 2004

Between:

1 M. Srinivasa Babu, S/o. Late M. Kesanna, HIndu,
R/o. 6-3-164/9-1, Premnagar, Khairatabad,
Hyderabad.
2 M. Suresh Babu, S/o. Late M. Kesanna, HIndu,
R/o. 6-3-164/9-1, Premnagar, Khairatabad,
Hyderabad.
3 M. VijayaLakshmi, S/o. Late M. Kesanna, HIndu,
R/o. 6-3-164/9-1, Premnagar, Khairatabad,
Hyderabad.
4 M. Sailaja, D/o. Late M. Kesanna, HIndu,
R/o. 6-3-164/9-1, Premnagar, Khairatabad,
Hyderabad.

..... PETITIONERS

AND

1 The Mandal Revenue Officer, Khairatabad Mandal,
Hyderabad District.
2 Smt. M. Venkata Subbamma, W/o. Not Known to the Petitioners,

HIndu, R/o. 6-3-164/9-1, Premnagar, Khairatabad,
Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of a Writ of Mandamus declaring the action of the 1st respondent herein in illegally

issuing the Legal Heir Certificate dt. 31-8-2002 to the 2nd respondent and consequently direct the1st respondent to cancel the Legal Heir Certificate dt. 31-08-2002 issued in favour of the 2nd respondent as highly illegal, arbitrary and violative of principles of natural justice.

Counsel for the Petitioner:MR.V.RAJAGOPAL REDDY

Counsel for the Respondent No.: GP FOR REVENUE

The Court at the admission stage made the following ORDER:

Father of the petitioner, late M. Kesanna, worked as Senior Reader at Secretariat press and died on 12.07.2002 leaving behind him the petitioner and others. The second respondent, alleging that she is the second wife of the deceased Kesasnna, obtained legal heir certificate from the first respondent and withdrew all the pensionary benefits of late Kesanna. Hence, the petitioner filed this writ petition contending that his father never married the second respondent and that the first respondent, without conducting any enquiry, issued legal heir certificate to the second respondent.

Heard learned counsel on either side.

On perusal of the entire material available on record, it is evident that the second respondent fraudulently obtained the legal heir certificate from the first respondent and withdrew the pensionary benefits of late Kesanna, father of the petitioner. As per the provisions laid down in the Indian Succession Act, succession certificate can only be granted by a competent civil Court, but not by the Mandal Revenue Officer concerned. Therefore, the petitioner is at liberty to approach the civil Court concerned for issuance of succession certificate in his favour and other members of his family. On obtaining such succession certificate, it is always open for the petitioner to recover the service benefits of his father, which were already withdrawn by the second respondent.

The writ petition is accordingly disposed of.

16.11.2004

ksld

To

1 The Mandal Revenue Officer, Khairatabad Mandal,
Hyderabad District.
2 Two CCs. to the Govt. Pleader for Revenue, High Court of

A.P.(OUT)

3 Two CD copies.